

Witness Name: Richard Pengelly

Statement No.: 1

Exhibits: 6

Dated: 23/05/2023

## UK COVID-19 INQUIRY

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### WITNESS STATEMENT OF RICHARD PENGELLY

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I, Richard Pengelly, will say as follows: -

1. On 1 July 2014, I took up post as Permanent Secretary in the then Department of Health, Social Services and Public Safety – renamed in 2016 as the Department of Health (both iterations of which I will refer to as “the Department”). I remained in this post until 4 April 2022, when I moved to the post of Permanent Secretary in the Department of Justice.
2. Prior to July 2014, I had been Permanent Secretary in the Department for Regional Development (now the Department for Infrastructure), and before that had had no previous experience of working in the area of health and social care.
3. The particular focus of this statement is on pandemic preparedness in Northern Ireland – the systems, structures and processes which seek to do that are comprehensively set out in the corporate statement from DoH, which I have read and fully agree with. For the avoidance of duplication I will not seek to restate all those issues here, but rather I will simply summarise some key aspects and offer my observations on those issues. To assist in this, I have sought to articulate my views under two broad headings – the framework we use; and how robustly we use it.
4. In terms of the framework used in Northern Ireland, the planning and preparedness approach to both general emergencies and pandemics is (and was) closely aligned

both across the UK, and the wider public sector in Northern Ireland. Some illustrations of this are set out below.

5. In terms of general emergency planning:

- a. The Cabinet Office Lead Government Department (LGD) principles were endorsed by the Head of the Northern Ireland Civil Service, in “*A Guide to Emergency Planning Arrangements in Northern Ireland*” published by the Executive Office, (refreshed) in September 2011;
- b. Within the Executive Office (before 2016, the Office of the First Minister and deputy First Minister), Civil Contingencies Policy Branch (CCPB) is responsible for promoting and encouraging the public sector to develop effective emergency preparedness to mitigate the effects of a civil emergency on the public and the environment. CCPB works across the public sector to develop an overarching framework of civil contingencies policy, guidance and advice as set out in the Northern Ireland Civil Contingencies Framework (2011) (‘the Framework’). The main aim of the Framework was to ensure that the people of Northern Ireland received a level of protection and emergency response which was consistent with elsewhere in the UK and which met their needs and expectations;
- c. CCPB sought to support the effective functioning of the Civil Contingencies Group (Northern Ireland) (CCG (NI)), the principal strategic civil contingencies preparedness body for the public sector. CCG(NI) was responsible for providing strategic leadership to civil contingencies preparedness by agreeing policy and strategy on cross cutting issues. It exercised a corporate governance function for civil contingencies preparedness at regional level and oversaw delivery of an agreed work programme to enhance resilience in NI;
- d. CCG (NI) works across all levels of government in NI - at the time of Covid-19, it was chaired by the Head of Civil Service (HOCS) and membership comprises of representation from all NI government Departments as well as local government;

- e. The 2011 Civil Contingencies Framework required the Department to maintain, review and update its Emergency Response Plan and to test and exercise the plan's emergency response arrangements; and
  - f. The structures, systems and processes involved in responding to an emergency are defined within the Department's Emergency Response Plan.
6. In terms of pandemic planning:
- a. The UK Influenza Pandemic Preparedness Strategy 2011 provided proposals for a UK-wide strategic approach to planning for and responding to the demands of an influenza pandemic; and
  - b. The 2013 Northern Ireland Health and Social Care Influenza Pandemic Preparedness and Response Guidance, prepared by the Department, was designed to support preparedness and response planning guidance for HSC organisations should an emergency response to an influenza pandemic be necessary. This guidance is closely linked to the 2011 UK Strategy.
7. In October 2016, the Department participated in Exercise Cygnus, a Tier 1 (i.e. UK national level) multi agency, cross-government exercise delivered by Public Health England (PHE). Over the course of three days, Cygnus provided the Department and colleagues from across the health and social care sectors the opportunity to test the national, strategic, health and social care preparation and response to a pandemic influenza outbreak that was close to the UK's worst case planning scenarios. To take forward lessons identified from Exercise Cygnus, the UK Government established the UK-wide Pandemic Flu Readiness Board (PFRB). A pressing element of the PFRB programme was that Government(s) should develop a range of options for relaxing legislative requirements or invoking additional requirements to support the response to a severe influenza pandemic.
8. In March 2018, the Department, in collaboration with the Department of Justice and TEO, formally established a CCG(NI) Pandemic Flu Northern Ireland Sub-Group to engage as part of the UK-wide Pandemic Flu Readiness Board (PFRB).

The sub-group was chaired by the Department's Director of Population Health, and its aim was to provide oversight for a programme of work to deliver the plans and capabilities to manage the health and wider consequences of pandemic flu in NI. The group sought to work collaboratively with NI and UK partners, to oversee the delivery of work aimed at improving NI's resilience in the key areas set out in the PFRB programme. To ensure buy-in from across all sectors, the work of the NI sub-group was placed under the auspices of CCG(NI) via the Resilience Programme.

9. In June 2018, I communicated the work to be taken forward by the CCG(NI) sub-group made up of officials from DoH, DoJ and TEO to the Northern Ireland Civil Service Board. Membership of the Board comprises of the nine Departmental Permanent Secretaries and the Head of the Civil Service [INQ000185374]. The purpose of this was to inform the NICS Board of the CCG(NI) Sub-Group and the PFRB programme, and in particular, to seek support for the creation of a UK-wide, free-standing draft Pandemic Influenza Bill. The aim of the draft Bill was to ensure that the UK Government and Devolved Administrations (DAs) considered and developed, so far as possible, a range of options for relaxing legislative requirements or invoking additional temporary powers which would come into effect to support a swifter and more effective response in the event of a severe influenza pandemic. The Bill would be held in draft and fast-tracked through Parliament only in the event of a future pandemic.
10. In July 2018, I subsequently issued further correspondence [INQ000185375, INQ000185376] to Permanent Secretaries to outline the priority Bill work to date and reaffirm that the general consensus across the four nations was that developing a single UK-wide Bill was a pragmatic way forward. Significant engagement had already taken place across NI Departments and I concluded that the next step for each Department requiring a legislative change was to agree policy positions and to commence writing drafting instructions. This approach was agreed by all relevant Departments.
11. By September 2018, I had approved a number of Policy Instructions for drafting of Northern Ireland articles in a draft UK Pandemic Flu Bill on behalf of the

Department of Health [INQ000185377]. This work proved critical as, in January 2020, The World Health Organization (WHO) declared the Coronavirus outbreak as a Public Health Emergency of International concern. In early February 2020 I updated Permanent Secretary colleagues (in the course of one of our regular Friday morning stocktake meetings) [INQ000185378] on the evolving situation and took this opportunity to press them on their commitment, as a highest priority, to the completion of work across departments on the draft 'Pandemic Influenza (Emergency) Bill. This work, in early February 2020, was to be coordinated by the Department (as lead) and the Executive Office, to ensure Northern Ireland would not be placed in a vulnerable position in response to the pandemic and that Northern Ireland provisions would be prepared and incorporated into the UK-Wide Pandemic Influenza Bill.

12. This work was the cornerstone to the Coronavirus Act 2020 (CVA 2020). The CVA 2020 was passed at pace at the outset of the Covid-19 pandemic. Receiving royal assent on 25 March 2020, the Coronavirus Act 2020 provided legislative measures that were reasonable, proportionate and based on the latest scientific evidence, to provide the Department and other Executive departments with the necessary emergency powers to act in a rapid and effective way to deal with the evolving and severe pandemic.
13. As can be seen from the above, the approach to planning and preparedness is clearly aligned both across the UK, and within Northern Ireland– through TEO and into individual departments in Northern Ireland.
14. In terms of the application of the approach, within the Department, leadership of the work on emergency planning, preparedness and response (including pandemic preparedness) fell to the Chief Medical Officer (CMO), who reported directly to me. In practical terms, the CMO delegated this work to the Director of Population Health, who was supported by the Emergency Planning Branch.
15. As has been set out in the Department's corporate statement, planning and preparedness was recognised as a key corporate function within the Department, and was included in the Departmental Risk Register [INQ000185379], the purpose

of which is to record and update the key risks threatening the achievement of the Department's strategic objectives and to identify the controls in place to mitigate and manage those risks. At the time of the Covid-19 outbreak the Department had noted its responsibility on the 2018/19 risk register "to ensure that adequate health and social care provision is available to citizens of NI in the event of any emergency". A key mitigating action was to review and develop pandemic influenza preparedness in Northern Ireland by participating in the UK Pandemic Flu Readiness Board and leading the CCG(NI) subgroup on pandemic influenza in NI, in order to contribute to the draft UK Bill and to oversee development of pandemic influenza guidance for NI incorporating primary, secondary and social care.

16. The Department's Emergency Response Plan (ERP) is reviewed regularly to ensure it remains fit for purpose. The 2019 version of the ERP was activated in January 2020 in response to the emergence of the SARS-CoV-2 virus and is currently under review, to take account of lessons learned from the response to the ensuing pandemic.

17. My own exposure to, and involvement with the issues that are subject matter of this statement, was in the context of my normal practice throughout my tenure which was to have regular one-to-one stock take meetings with those staff who report directly to me – around every four weeks or so. This would have been the main forum for any discussion the CMO and I had on preparedness issues – usually by way of a brief update when any issues arose. Issues that could be raised covered both the substantive issues linked to planning and preparedness, and staffing issues within the Department related to the team taking this work forward. In terms of the latter, the CMO always clearly conveyed a sense of recognition of the importance of this work, and there was a clear sense of appropriate prioritisation on his part. I do not recall any specific issues of concern being escalated to me seeking my personal intervention in addressing them.

18. In this context, any personal observations I can make are necessarily limited by the absence of my own detailed engagement on the issues but, in general terms, my sense of the position between my appointment in 2014 and the start of the

COVID pandemic in 2020 was that it was subject to a clearly structured and robust approach; it was well integrated with relevant organisations within NI and across the UK; and that it was given an appropriate degree of attention and prioritisation.

19. I believe this is absolutely the right approach, and that it has served us well – both in terms of adopting a standard and structured approach, but also in terms of being able to call upon the advice and expertise of colleagues in GB. More importantly, while this approach sought to embed knowledge and experience of the structure and “toolkit” for response, my sense was that it didn’t aspire to put in place rote learning and the teaching of automated responses (i.e. if X happens then respond with Y), recognising that it is impossible to predict how any given emergency would play out. Rather, I believe it developed the skills and confidence of colleagues to be able to react to a fast-evolving situation. This was particularly evidenced in the skills and learning that were developed in the work on Brexit preparations – a very different issue than a pandemic - and yet were successfully transferred to the COVID response.

20. In summary, my general views on the systems, processes and structures for pandemic preparedness in Northern Ireland were that they were robust and appropriate, and I did not identify any respect in which they could be improved. I also confirm my personal view that there were no key policy decisions, for example on the funding and structure of public services, which should have been taken differently to better prepare Northern Ireland for a whole-system civil emergency, such as a pandemic.

21. The issues in general terms which I believe were done correctly by the Northern Ireland Civil Service and The Executive Office in relation to pandemic planning, preparedness and resilience during my tenure in office were:

- a. Adopting a systematic and well-articulated approach, which is consistent with the approach across the UK;
- b. Ensuring there is regular dialogue and engagement across all relevant public bodies in NI; and

c. Regularly testing, and where necessary refining and improving, that approach.

22. Details of past incidents and simulated exercises and the lessons that flowed from them are set out in the Department's corporate statement. I have nothing to add to that, and similarly am not aware of any missed opportunities in terms of lessons that were not learned.

23. In terms of the absence of an Executive between 2017 and 2020, I am not aware of any issues that would have gone to either Ministers or an Executive, had they been in place. In that context, it could not be asserted that the political hiatus had any direct impact on planning and preparedness. That said, the reality is that the absence of Ministers and a functioning Executive brought additional and onerous demands on senior managers. The consequence of this is that less time and or energy was available for more routine issues, than would otherwise have been the case – thus it is impossible to say it did not have an indirect impact. I would emphasise that I have no specific examples of this, but simply offer it as an observation.

### **Statement of Truth**

I believe that the facts stated in this witness statement are true. I understand that proceedings may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief of its truth.

**Personal Data**

**Signed:**

**Dated:** 23/5/23